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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ARMANDO VILLANUEVA and
HORTENCIA SAINZ, individually and
as successor in interest to Pedro
Villanueva, deceased, and FRANCISCO
OROZCO, individually,

Plaintiffs,

vs.

STATE OF CALIFORNIA; JOHN
CLEVELAND; RICH HENDERSON;
and DOES 1-10, inclusive,
Defendants.

Case No. 8:17-cv-01302 JLS (KESx)

*Assigned to the Honorable District
Court Judge Josephine L. Staton*

**DECLARATION OF FRANCISCO
OROZCO IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

*[Filed concurrently with Plaintiff's
Opposition to Defendants' Motion for
Summary Judgment; Memorandum of
Points and Authorities in support
thereof; Declaration of Renee V.
Masongsong and exhibits thereto;
Declaration of Scott A. DeFoe;
Declaration of David E. Balash;
Declaration of Edward C. Fatzinger]*

Date: August 10, 2018
Time: 2:30

DECLARATION OF FRANCISCO OROZCO

I, Francisco Orozco, declare as follows:

1. I am a competent adult and personally familiar with the facts contained herein and would and could competently testify thereto if called upon to do so.

2. On July 3, 2016, I was the front-seat passenger in the red Chevrolet Silverado truck being driven by Pedro Villanueva.

3. When Pedro and I were inside the truck in the parking lot where we first saw the dark sedan, we heard a weird noise that sounded similar to but not exactly like a siren. I had never heard any type of siren or horn like that prior to this incident. I looked over my shoulder and saw a dark sedan.

4. I briefly saw an orange light coming from inside the dark sedan, but the dark sedan had no red and blue lights and sirens activated, and the sedan's headlights were off. I did not recognize the orange light as any indication of law enforcement.

5. When I observed the dark sedan in the parking lot, I did not know that it was a police vehicle. At that time, Pedro and I were scared.

6. There was no impact between Pedro's truck and the dark sedan when we were in the parking lot. Pedro never accelerated the car in reverse toward the dark sedan and never attempted to strike the dark sedan with the truck at any time, including when we were in the parking lot.

7. Prior to first observing the dark sedan, Pedro and I had received warnings, both on social media and from an acquaintance, to beware of muggers who may be at the truck clubs or truck award shows in suspicious black sedans.

8. After we left the parking lot, the dark sedan continued to follow us, and we were in fear for our lives. We found it very odd that a dark sedan like this would approach us in that manner, and Pedro and I were scared.

9. I did not see any red and blue lights on the dark sedan at any time in the parking lot or as we were exiting the parking lot.

1 10.I never heard any sirens coming from the dark sedan when it was following us
2 after we left the parking lot and before we pulled into the cul-de-sac at what I now
3 know to be MacArthur Avenue.

4 11.When I looked back at the dark sedan shortly before we turned into the cul-
5 de-sac, I noticed that the sedan's headlights were off, and I did not see any other
6 lights on the sedan.

7 12.After we left the parking lot and before we pulled into the cul-de-sac, I did
8 not think that the people following us in the black car were officers. Based on the
9 warnings we had received and the fact that the dark sedan had no lights or police
10 lights on, I thought looters or muggers were following us.

11 13.I was scared and I thought our lives were in danger. We were in an unfamiliar
12 place and we did not feel safe with the dark sedan following us.

13 14.Around 10:45 p.m., the dark sedan followed us onto a street I now know to be
14 N. Pritchard Avenue. Pedro then turned right onto the cul-de-sac at MacArthur Ave.
15 When he saw that MacArthur was a dead end, he put the truck in reverse to get back
16 onto N. Pritchard Ave.

17 15.We wanted to make a "three-point turn" or "K turn" from the cul-de-sac onto
18 N. Pritchard Ave.

19 16.When we reversed out of the cul-de-sac, the truck was not moving in excess
20 of the speed limit.

21 17.I did not feel the truck impact any parked vehicles behind us when Pedro
22 reversed the truck onto N. Pritchard.

23 18.I next saw the dark sedan again after Pedro had slowly reversed the truck out
24 of the cul-de-sac onto N. Pritchard.

25 19.When the shots started, Pedro was still in the process of making the "K turn"
26 or "three-point turn." Pedro did not complete the three-point turn because he was
27 shot. When the shots started, Pedro was still in the process of straightening out the
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1 truck as part of the three-point turn. The truck had barely moved forward as Pedro
2 was straightening out the truck as part of the three-point turn, no more than 2-3 feet,
3 when the shots started.

4 20.I did not hear who I now know to be the officers identify themselves until
5 approximately a fraction of a second before the shots started. They said, “stop,
6 motherfuckers” and then they said, “police.” They said, “police” when Pedro was
7 slowly starting to straighten out the truck as part of the three-point-turn, and then,
8 boom, shots were fired.

9 21.We did not have time to comply with any command or to process the fact that
10 the occupants of the dark sedan were police officers before the shots started.

11 22.When the truck began to move forward, it was going less than 5mph. The
12 truck did not accelerate toward the dark sedan; it remained at less than 5mph during
13 all of the shots.

14 23.As the truck started slowly moving forward into its turn, and also during all of
15 the shots, I was generally looking out the front windshield toward the space between
16 the dark sedan and the curb on N. Pritchard Ave. I did not see any officer in that
17 space or in the path of the truck before the shooting or during any of the shots.

18 24.There was more than enough space between the dark sedan and the curb on N.
19 Pritchard Ave. for the truck to pass the dark sedan, and there was no officer in that
20 space. I thought we were going to pass by the dark sedan.

21 25.The truck was never driving directly toward any officer or the dark sedan and
22 was never came close to striking any officer.

23 26.It was my impression that after being struck by gunshots, Pedro was unable to
24 control the vehicle, and then the vehicle coasted forward at less than 5mph.

25 27.One of the gunshots struck me in the right elbow.

26 28.It was my impression that it was the driver of the black sedan who shot me
27 because the shot that struck me came through the front passenger window of the
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1 truck (to my right). I had seen the passenger officer near the passenger-side door of
2 the dark sedan prior to the shooting, but I did not see the driver officer in front of the
3 truck or in the space between the dark sedan and the west curb on N. Pritchard at
4 any time before the shooting. It was my impression that the driver officer was off to
5 the right side of the truck and out of the truck's path when he shot me because the
6 shot that struck me came from my right, and I didn't see the driver officer in front of
7 me at any time before the shots.

8 29. Although I could see the passenger officer prior to the shooting, I did not see
9 his vest that said "police" until after the shooting.

10 30. After I was shot, I was in a lot of pain.

11 31. After the shooting, I put my hands to my face. I did not know how long I
12 could maintain keeping my hands up at my face because I had just been shot in the
13 right elbow. I was terrified that if I dropped my hands, I would be shot again.

14 32. After the shooting, the officers pointed their guns at the truck and instructed
15 me to keep my hands over my face and to stay in the truck.

16 33. I was inside the truck with my hands up for about seven minutes before the
17 officers instructed me to exit the truck.

18 34. After I got out of the truck, I was handcuffed with my arms behind my back.
19 This was very painful because I had just been shot in the right elbow.

20 35. After the officers handcuffed me, the officers instructed me to sit on the curb,
21 and I complied. I sat handcuffed on the curb for about 10 to 15 minutes before I
22 received any medical attention.

23 36. About 35 minutes after the shooting, I was transported to West Anaheim
24 Medical Center. When I was in the ambulance being transported to West Anaheim,
25 my left hand was handcuffed to the gurney.

26 37. Even after I arrived at West Anaheim, I was still handcuffed to the gurney.
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1 38. West Anaheim was unable to treat me, and so then I was transported to UC
2 Irvine Medical Center. When I was in the ambulance being transported to UC
3 Irvine, my left hand was still handcuffed to the gurney.

4 39. I was handcuffed to the gurney and then the hospital bed for approximately
5 five hours at UC Irvine before the handcuffs were finally removed. While I was
6 handcuffed to the hospital bed for these approximate five hours, there was a police
7 officer present in my hospital room at all times. The officer would not even allow
8 me to get up and use the bathroom in privacy.

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10 I declare under penalty of perjury that the foregoing is true and correct, and
11 that this was executed this 10 day of July 2018 at Woodland Hills, California.

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13 Francisco Orozco

14 Francisco Orozco
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